

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

**IN RE: JOHNSON & JOHNSON
TALCUM POWDER PRODUCTS
MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION**

MDL No. 16-2738
Hon. Freda L. Wolfson
Magistrate Judge Lois H. Goodman

Case No.: 3:16-md-02738-FLW-LHG

Motion Day: January 18, 2022

[ORAL ARGUMENT REQUESTED]

**DECLARATION IN FURTHER SUPPORT OF
THE FERRARO LAW FIRM, P.A.'S MOTIONS FOR RELIEF FROM
COMMON BENEFIT FEE ASSESSMENTS**

David A. Jagolinzer declares under penalty of perjury pursuant to 28 U.S.C. § 1746 as follows:

1. I am a shareholder at the Ferraro Law Firm, P.A. (hereafter, "Ferraro Law"). I am counsel of record for Ferraro Law in this Court and in state courts for clients with claims against Johnson & Johnson (hereafter, "J&J") and/or Johnson & Johnson Consumer, Inc. f/k/a Johnson & Johnson Consumer Companies, Inc. (hereafter, "J&J Consumer") (collectively, "J&J Defendants")¹ that have been

¹ Unless otherwise specified, all capitalized terms in this Declaration have the same definition provided in Ferraro Law's Memorandum of Law in Support of its Motions for Relief from Common Benefit Fee Assessments.

resolved or are currently pending. I am licensed and in good standing to practice law in Florida, Massachusetts, New York, Illinois, and the District of Columbia.

2. I have personal knowledge of the facts and circumstances I describe below, and I submit this declaration in further support of Ferraro Law's Motion for Relief from Common Benefit Fee Assessments filed on December 10, 2021.

3. Ferraro Law settled the 24 cases underlying this dispute with the J&J Defendants in the fall of 2021. About one year prior Ferraro Law also settled 11 other cases with the J&J Defendants involving mesothelioma claims related to their baby powder products.

4. Ferraro Law and the J&J Defendants began settlement negotiations against the backdrop of Ferraro Law's independent and aggressive litigation of its state court cases against the J&J Defendants, Ferraro Law's recent \$9 million verdict against the J&J Defendants in another case involving their talc products, and impending trial dates in some of Ferraro Law's state court ovarian cancer cases.

5. That \$9 million verdict against the J&J Defendants is the only verdict obtained in the State of Florida for claims arising out of a plaintiff's use of J&J's baby powder products. The members of the PSC in this MDL were aware of this verdict, which pre-dated Ferraro Law's settlement of the 24 cases underlying this dispute.

6. Undersigned counsel, Co-Lead Counsel P. Leigh O'Dell, and Co-Lead Counsel Michelle Parfitt spoke by phone on November 8, 2021, regarding Ferraro Law's objection to the common benefit fee assessments imposed against its settlements in the 24 cases it had recently settled with the J&J Defendants. Plaintiffs' Liaison Counsel Chris Placitella was not present for that conversation, and advised Co-Lead Counsel Ms. O'Dell, Co-Lead Counsel Ms. Parfitt, and me via contemporaneous e-mail (sent at 3:56 p.m. that day) that he would not be able to join the call because he was attending a New Jersey Association for Justice meeting.

7. During that November 8, 2021, call, I did not admit or concede that because Ferraro Law signed a Participation Agreement Ferraro Law had no basis to object to the common benefit fee assessments underlying this dispute. I did acknowledge, however, that if Ferraro Law had executed a Participation Agreement, then Ferraro Law would not be able to object to the common benefit fee assessments on the basis that Ferraro Law is Non-Participating Counsel as defined in CMO No. 7(A).

8. As of the date of this filing I understand that Plaintiffs' Lead Counsel in this MDL has still not responded to the J&J Defendants' counsel's requests for written confirmation of the appropriate holdback percentage Plaintiffs' Lead Counsel contends should be applied to the 24 cases Ferraro Law settled with the J&J Defendants as required by CMO No. 7(A), ¶ 29.

Dated: January 7, 2022

s/ David A. Jagolinzer

David A. Jagolinzer